

MACOMB COUNTY REGISTER OF DEEDS MORTGAGE FORECLOSURES

The status of someone holding a land contract or mortgage on a piece of property is as a secured creditor. In a default situation, creditor will foreclose on the property and either receives money owing him or he will receive the property. Macomb County Register of Deeds handles only mortgage, lien foreclosures, and land contracts. A property also may be foreclosed on for delinquent property taxes. The Macomb County Treasurer Office handles tax foreclosures at 1 South Main Street, Mt. Clemens, MI 48043. Phone (586) 469-5190.

Foreclosure may occur through either the judicial process [resulting in a Clerk's Deed] or by advertisement [resulting in a Sheriff's Deed]. Procedure selected is dependent on "power of sale" provisions contained in the mortgage or security instrument. Land contracts can be foreclosed only by judicial foreclosure action and most mortgages are foreclosed by advertisement.

Foreclosure by Advertisement – Sheriff's Deed

1. Written notice of default is given by the lender [mortgagee] to the borrower [mortgagor].
2. Notice of mortgage foreclosure sale for Macomb County properties is published in the Macomb County Legal News for four (4) weeks prior to public sale. **Information pertinent to each property is listed in this publication, usually by mortgagor name and legal description rather than property address. The property address may/may not be cited on mortgage being foreclosed. A search for address information may be obtained through a visit to Register of Deeds (search fees may apply), LandAccess.com on your computer or possibly local tax records (city/township where property is located).**
3. On appointed date and time, a public sale is conducted at the courthouse by the sheriff, or a deputy sheriff on behalf of the sheriff. In Macomb County public sale is held every Friday morning at 10:00 A.M. in the Macomb County Courthouse. The County Official who conducts the sale is acting in the capacity of an "auctioneer".
4. A "Sheriff Deed" is issued to the high bidder. If no one is present to bid, sale goes to the lender. If someone from the outside bids in, that bid must be at least sufficient to satisfy indebtedness to lender or more.
5. Once sale takes place, the sheriff or deputy sheriff signs the certificate of auctioneer and the deed is to be recorded within 20 days of the sale. Recording the deed after 20 days alters the beginning date of redemption period.
6. Recorded sheriff's Deeds are held in the Register of Deeds office for the full period of redemption [redemption period is stated in the Sheriff's Deed]. A redemption period can be from 1 month to 1 year depending on various factors per MCL 600.3240; MSA 27A.3240 and MCL 600.3245; MSA 27A.3245. Redemption period may also be affected by MCL 600.3241; MCL 600.3241a.
7. Any purchaser of foreclosed property who pays taxes or insurance on the property is entitled to recover these expenses if the property is redeemed. In order to be eligible to collect for these expenses, the buyer must record an affidavit of taxes or insurance. This affidavit must state amount paid, identify foreclosure document, mortgagor names and include original receipts evidencing amount paid. An affidavit of insurance must include an attached affidavit from the insurance agent pro-rating amount of premium attributable to foreclosure period.
8. During the redemption period, the mortgagor, his heirs, assigns, agents, etcetera may redeem the property either by dealing directly with the grantee of the foreclosure deed, their agent or designee, or by tendering correct redemption amount to Register of Deeds. **Macomb County Register of Deeds office can only calculate redemption figures for sheriff/clerk deeds recorded before March 30, 2005 (pursuant to HB 929 and HB 931) upon receipt of a \$5.00 search fee and pertinent information. A Payoff Request form may be obtained from Macomb County Fax on Demand Service at (888) 99-CLERK or by stopping by in person to Register of Deeds. Follow directions on the Payoff Request form and return it to Register of Deeds for preparation of a payoff letter. This form will walk the customer through all necessary information to calculate payoff.** Register of Deeds provides this information as a service to its customers only. Statute directs the Register of Deeds to only accept amount tendered from the redeeming party and is silent about how the amount is figured. If the property is redeemed through Register of Deeds office, the redeeming party must pay full amount bid at foreclosure sale + interest accrued on this amount from date of sale to date of redemption + any recorded affidavits of payment of taxes or insurance [figured from date of payment to date of redemption] + any interest at same interest rate as the foreclosure. For sheriff/clerk deeds recorded before March 30, 2005, a redemption certificate is then prepared by the Register, sent to grantee under the sheriff's deed for signing and recorded by Register of Deeds thus voiding Sheriff Deed. Sheriff/clerk deeds recorded after March 30, 2005 will be the responsibility of the grantee from the foreclosure sale to prepare and record a redemption certificate upon approval of the redemption funds pursuant to HB 929 and HB 930.
9. If no redemption occurs, the deed becomes operative at the conclusion of redemption period.

Judicial Foreclosure – Clerk's Deed

1. In a judicial foreclosure, the vendor of the Land Contract or mortgagee of the mortgage files a complaint in Circuit Court after default occurs.
2. The judge enters a foreclosure judgment, which allows lender [land contract vendor or mortgagee] to schedule a foreclosure sale.
3. A public sale is conducted and if the property is sold, the buyer's name and bid is entered on Clerk's Deed. If the property is not sold, land contract vendor or mortgagee's name is entered on the deed.
4. Redemption period is stated on the deed, and is always six (6) months from date of sale for a judicial foreclosure. The deed is to be recorded within 20 days of foreclosure sale. Recording the deed after 20 days alters the beginning date of redemption period.
5. MCL 600.3140; MSA 27A.3140 and MCL 600.3145; MSA 27A.3145, govern redemption in judicial foreclosures.
6. Redemption method for a judicial foreclosure is the same for a foreclosure by advertisement (sheriff's Deed).